STATE OF INDIANA BEFORE THE FIRE PREVENTION AND BUILDING SAFETY COMMISSION

IN RE:)	CAUSE NO.
EXPRESS INN)	DHS-1609-FPBSC-005
PRINCETON)	

NON-FINAL ORDER OF DISMISSAL

On December 13, 2016, the Petitioner, by its representative, and the Respondent, by counsel, filed the attached Joint Motion to Dismiss, thereby jointly requesting this above-captioned administrative appeal be dismissed.

Accordingly, the present Administrative Law Judge now enters this Non-Final Order of Dismissal. The ultimate authority in this matter is the Fire Prevention and Building Safety Commission. Indiana Code § 4-21.5-3-29(d) requires any party seeking to preserve an objection to this order for judicial review to file a written objection that

- 1. identifies the basis of the objection with reasonable particularity; and
- 2. is filed with the Commission within fifteen (15) days (or any longer period set by statute) after this order is served.

In the absence of an objection from a party or notice from the Commission of its intent to review any issue related to this order, the Commission shall affirm this order in accordance with Indiana Code § 4-21.5-3-29(c). This order will be considered by the Commission at its next scheduled meeting, Tuesday, January 3, 2017 at 9:00 a.m.

Date: Decamber 14 2016

HON. DAVID L. CARTER

Administrative Law Judge

Indiana Department of Homeland Security

302 W. Washington Street

Indiana Government Center South, Rm E208

Indianapolis, Indiana 46204

Telephone: (317) 234-8917 E-mail: dacarter2@dhs.in.gov A copy of the foregoing was served by U.S. Postal Service upon the following parties and attorneys of record:

Roger Lehman R Lehman Consulting 1220 North Red Bank Road Evansville, IN 47720

and personally served on the following attorney of record:

Justin Guedel Indiana Department of Homeland Security 302 W. Washington Street Indiana Government Center South, Room E208 Indianapolis, IN 46204

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JOINT MOTION TO DISMISS

The parties respectfully request the above captioned matter be dismissed. In support of this request, the parties state the following:

- 1. On March 08, 2016, Petitioner filed variance number 16-04-36 requesting a nine month grace period from enforcement of Code Section 12-4-9.
- 2. During the April 5, 2016 Indiana Fire Prevention and Building Safety Commission meeting, Petitioner's variance request was denied.
 - 3. On April 19, 2016, Petitioner filed their Petition for Review of the denial of the variance.
- 4. On December 08, 2016, Petitioner notified Respondent of their intent to withdraw their appeal.

WHEREFORE, the parties respectfully request this matter be dismissed.

Date: 12/13/16

Respectfully submitted,

Roger L Lehman

Roger Lehman Agent for Petitioner

Justin K. Guedel

Attorney for Respondent

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